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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,911	06/15/2001	Jeff Taylor	003801.P044	8378

7590 03/04/2004

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EXAMINER

BASHORE, ALAIN L

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/881,911

Applicant(s)

TAYLOR ET AL.

Examiner

Alain L. Bashore

Art Unit

3624

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-9, 13-16 are rejected under 35 U.S.C. 101 as non-statutory. The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim at least one structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential].

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 16, 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 1, 16, 33-35 there is claimed "facilitating" or "facilitate" which is considered vague and indefinite since it is not clear what are the meets and bounds of such a term. What may be considered facilitation to one may not be considered facilitation to another.

In claim 12 there is recited "a view item web page" is vague and confusing since all web pages allow viewing an item. It is not clear how this recitation further limits a web page.

In claim 3, there is recited "buying and selling privileges" which is vague and indefinite. Since in any auction a buyer and seller has "privileges" because that are allowed to participate, it is not clear how this recitation further limits a bidder and seller in an auction. The term "privileges" is a relative term that is also vague and indefinite. What is considered a "privilege" to one may not be considered a "privilege" to another.

In claims 17-25, 29-32 there is claimed apparatus that is vague and indefinite because no structure is recited, only functional description. The terms "modules" may be purely software in nature.

Claim 34 is vague and indefinite because there are recited two means-for clauses without any recitation of interconnecting structure.

There is claimed in claim 9 and 25 "special" which is considered a relative term and therefore vague and indefinite.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 10-11, 13-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart.

Stewart discloses a method to facilitate network-based shopping on an auction web site where there is communication between a network-based auction facility and a seller (para 0057). Bidders are recorded as qualified to participate before the bidder may bid (para 0099, 0100).

It would have been obvious to one with ordinary skill in the art to substitute "authorized" for what is described by Stewart since the teaching in Stewart is to a "qualified to participate" and "approval" that is considered within the ordinary meaning of

authorized. Stewart also teaches the creation of a legally binding contract (para 0108) which also implicitly provides "authorization". Since the seller enters into a bidding agreement there is present a "request to authorize".

Stewart discloses communication of a seller request to authorize bidders to bid on a sale listing (para 0010). The buyer custom catalog disclosed by Stewart (para 0061) is considered within the definition of a "personalized web page".

7. Claims 7-8, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied to claims 1-4, 6, 10-11, 13-35 above, and further in view of Friedland et al.

Friedland et al discloses bidding history (fig 8) and restriction requirements (fig 6)

It would have been obvious to one with ordinary skill in the art to include bidding history to Stewart because Stewart teaches a live auction as one type of auction for the exchange of goods (para 0071).

It would have been obvious to one with ordinary skill in the art to include restriction requirements to Stewart because Stewart teaches such as requirements of the transaction process (para 0065).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart as applied to claims 1-4, 6, 10-11, 13-35 above, and further in view of Walker et al.

Stewart does not disclose a sales listing that includes an events listing.

Walker et al discloses events listing (col 1, lines 44-60).

It would have been obvious to one with ordinary skill in the art to include a sales listing as disclosed by Walker et al to Stewart as the substitution of one type of commodity for another.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al in view of Stewart as applied to claims 1-4, 6-35 above, and further in view of Kumar et al.

Friedland et al in view of Stewart does not disclose adding and removing an authorization restriction.

Kumar et al discloses adding and removing an authorization restrictions ( para 0044, 0048).

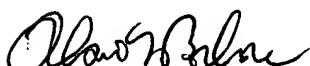
It would have been obvious to one with ordinary skill in the art to include adding and removing an authorization restrictions to Friedland et al in view of Stewart because Kumar et al teaches that business conditions may change over time (para 0044).

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alain L. Bashore